

# The State of South Carolina



## Office of the Attorney General

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February 23, 1987

Gerald C. Smoak, Esquire  
Colleton County Attorney  
Post Office Drawer 1108  
Walterboro, South Carolina 29488

Dear Mr. Smoak:

By your letter of December 29, 1986, you have asked whether political subdivisions such as Colleton County or the City of Walterboro may place certain stipulations on allocations or appropriations made to the Walterboro-Colleton City-County Recreation District. It is the opinion of this Office that stipulations may so be attached to allocations or appropriations.

A review of the legislation creating the District, Act No. 628 of 1973, reveals only the following concerning expenditure of funds by commissioners of the District:

Section 5. Powers and duties. -- The commission shall be empowered as follows:

\* \* \*

(6) To spend all moneys which it shall receive and which may be set apart to the commission for its functions; . . . .

This provision does not definitively respond to the question presented; thus, other relevant law must be considered.

The power to appropriate funds is legislative and may be exercised by such legislative bodies as the General Assembly, a

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county, or a city. At the state level,

it long has been settled that the Legislature may attach "conditions" to items in an appropriation measure, prescribing the exact purposes for which the money may be spent. ... Such a power is an integral element of the legislative prerogative to define social objectives through its exclusive appropriation power. Moreover, it necessarily follows from the allocation of power between the legislative and executive branches that the Governor, or other members of the executive branch, cannot use funds appropriated for one purpose to augment funds earmarked for a second purpose. ... To allow such a transfer of funds effectively would be to supplant the executive for the legislative branch as the authority for determining the relative merits of competing social programs.

Opinion of the Justices to the Senate, 376 N.E.2d 1217, 1222, fn. 2 (Mass. 1978). In this State, our Supreme Court has stated:

The General Assembly has, beyond question, the duty and authority to appropriate money as necessary for the operation of the agencies of government and has the right to specify the condition under which the appropriated monies shall be spent.

State ex rel. McLeod v. McInnis, 278 S.C. 307, 313-14, 295 S.E.2d 633 (1982). We are not aware of any reason why this principle would not apply by analogy to counties and municipalities.

Often, federal funds are provided to the State or to political subdivisions of the State "with strings attached" under various federal programs. How those funds are to be characterized (whether state or federal) once they have been received by the State was discussed in an opinion of this Office dated March 25, 1985. The reasoning in that opinion is similar to the quotations above cited and would be equally applicable to the question you have raised. A copy of that opinion is enclosed for your use.

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Based upon the foregoing and in reliance upon our research and reasoning in the opinion of March 25, 1985, it is the opinion of this Office that a county or municipality may appropriate or allocate funds, with stipulations, to the Walterboro-Colleton City-County Recreation District.

With kindest regards, I am

Sincerely,

*Patricia D. Petway*  
Patricia D. Petway  
Assistant Attorney General

PDP/an

Enclosure

REVIEWED AND APPROVED BY:

  
Robert D. Cook  
Executive Assistant for Opinions